

REMARKS

Claims 1-15 are currently active.

The Examiner has objected to Claims 2-8 and 10-15.

The Examiner has rejected Claims 1 and 9 as being unpatentable over Gorshe in view of Romiti. Applicant respectfully traverses this rejection.

Claim 1 of applicant has the limitation of a fabric, a parity fabric, a first port card which receives data at a first rate from a network or sends data at the first rate to the network, performs first parity calculations on the data received at the first port card, produces first parity data from the first parity calculations or sends data at the first rate to the network, and a second port card which receives data at a second rate from the network or sends data at the second rate to the network, performs second parity calculations on the data it received at the second port card, produces second parity data from the second parity calculations or send data at the second rate to the network. It is a combination of these elements that comprise the switch of the invention of Claim 1.

The Examiner cites Gorshe as teaching essentially all the limitations of Claim 1 except that Gorshe does not disclose that the first input port card receives data at a first rate

and the second input port card receives data at the second rate. As the Examiner recognizes, Gorshe has no capability of handling data that is at more than one rate.

To overcome the deficiency in regard to the teachings of Gorshe to arrive at applicant's invention of Claim 1, the Examiner cites Romiti as representative of a switch being able to handle two different rates. The Examiner concludes that since it is known to handle two different rates by a switch, and all the other teachings are met by Gorshe, applicant's invention of Claim 1 is arrived at.

First, applicant does not suggest or claim that he was the first to discover the switch that handles two different rates. Secondly, applicant does not suggest that he discovered or claims any of the elements themselves of a fabric, a parity fabric, a first port card or a second port card, or the use of parity calculations in of themselves. What applicant does claim, however, is that the combination of all the elements and limitations in Claim 1 together were first invented by him.

It is a basic tenet of patent law that there must be some teaching or suggestion in the references themselves to combine their teachings to arrive at applicant's claimed invention. In regard to Gorshe, there is taught a bus rate adaption and time slot assignment circuit for a SONET multiplexed system. The teachings are specifically limited for the International SDH standard as well as the SONET standard. See column 6, lines 33-36.

Gorshe further teaches the interface device as a pair of input ports 10, 12, a pair of output ports 14, 16, and a pair of bi-directional ports 18, 20. The timing and synchronization aspects of the interface device are handled through the primary clock input 22, the primary frame pulse input 24, the reference clock output 26, and the reference frame pulse output 28. See column 6, lines 45-52.

In contrast, Romiti teaches that telecommunication equipment uses both normal rate and separate channels and then goes on and specifically refers to the European GSM network for mobile telephony systems. See column 5, lines 27-30 of Romiti.

From these two references and the context in which they are found, there is nothing to suggest in Gorshe the need to modify, or any reason to modify the teachings of Gorshe to somehow make it able to handle two different rates and arrived at applicant's claimed invention from the teachings of Romiti. Similarly, Romiti is not teach or suggest to somehow or other modify a SONET multiplexed system or a system limited by the International SDH standard. There is no basis for combining these teachings from the teachings of the references themselves. For this reason alone, Claim 1 is not obvious from the combination of Gorshe and Romiti.

It is also a basic tenet of patent law that the teachings of a reference cannot be taken out of the context in which they are found. As explained above, the specific teachings in

regard to Gorshe are taught only be to be applicable to a SONET multiplexed system or a system subject to the International SDH standard. In contrast, Romiti specifically teaches a switch that can be used in an EPO GSM network. These are two totally different contexts and there is nothing to indicate that the context of one will be applicable to use with another. By law, the Examiner cannot pick and choose the elements of the different references of the prior art using applicant's own claim as a road map for the Examiner to find the elements in the claim, and then having found each of the different elements in various references of the prior art conclude that applicant's invention of Claim 1 is arrived at. It is respectfully submitted the Examiner is doing exactly that, finding the different elements of the claimed invention in different references, and having found then concluding that applicant's claimed invention is arrived at, but ignoring the context in which they are found.

Furthermore, the combination of these references are incompatible. The Examiner has not explained how one skilled in the art would be able to take the different teachings the Examiner is relying upon and somehow or other modify the specific systems to make them work. It would require significant experimentation and redevelopment work to somehow or other modify the system taught by Gorshe where there is no teaching or suggestion whatsoever to be able to handle more than one rate, and make it operational to handle more than one rate. Furthermore, there is no teaching a suggestion in Romiti, which has nothing of all to do with any type of a parity switch, or a parity calculation, to somehow

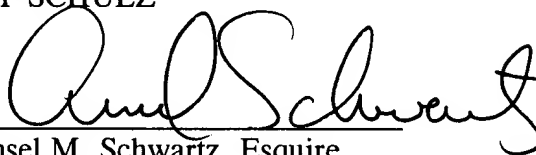
or other modify the multiple data rates taught by Romiti to be used to utilize a parity calculation in the context of Gorshe. These are not simple matters, but significant hurdles.

Accordingly, Claim 1 is not obvious from the combination of Gorshe and Romiti. Claim 9 is patentable for the reasons Claim 1 is patentable.

In view of the foregoing amendments and remarks, it is respectfully requested that the outstanding rejections and objections to this application be reconsidered and withdrawn, and Claims 1-15, now in this application be allowed.

Respectfully submitted,

JEFF SCHULZ

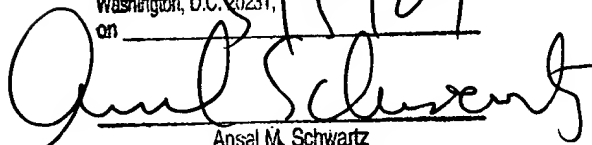
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